WP(C) 228/2007

BEFORE

HON'BLE MR JUSTICE AMITAVA ROY

Heard Mr P. Bhowmik, learned counsel for the petitioner. It is submitted at the Bar that the Shilling Municipal Board (hereinafter referred to as the 'Board') does not ,for the present ,has its Standing counsel at the Principal seat , Guwahati.

Issue notice returnable on 30.01.2008.

The petitioner would take steps for service of notice on the respondents by registered post with A/D. Steps within 2 days. Liberty is also granted to the petitioner to cause personal service of notice on the respondents. The process, however, should be routed through the office of this Court.

Issue notice on the prayer for interim relief also returnable on the same date.

The learned counsel for the petitioner with reference to the letter dated 28.9.2007 of the Chief Executive Officer, Shillong Municipal Board contends that though in terms thereof the petitioner has been collecting tolls from Board's toll gate at Lad Nongkrem by duly depositing the amounts so exacted with it(Board), by letter dated 20.12.2007 he had been initially informed that the said gate would be operated departmentally and later by the impugned letter dated 14.1.2008 , that the collection of toll at the gate is entrusted to the respondent No.2 .

Mr Bhowmik submits that in face of the period for which the gate had been settled with the petitioner i.e. from 1.10.2007 to 31.3.2008 and scrupulous adherence by him the terms and conditions pertaining thereto the arrangement as embodied in letter dated 28.9.2007, the impugned action of the Board is on the face of the records arbitrary, unfair and unjust. The learned counsel points out that inspite of the letter dated 20.12.2007 the Board without any reservation has received the petitioner's deposit towards the toll collections on 7.1.2008 .

The petitioner has stated on oath that he is still operating the toll gate.

Upon hearing the learned counsel for the petitioner and on a consideration of the pleaded facts supported by an affidavit as well as the documents appended to the petition, I am of the view that a prima facie case has been made out thus warranting immediate intervention in the interest of justice. It is therefore, provided that, till the next date fixed, the petitioner shall be allowed to operate the Shillong Municipal toll gate at Lad Nongkrem. Further orders would be passed on the next date after hearing both sides.